

## **DETAILED ACTION**

### ***Response to Amendment/Pre-Appeal Brief Conference***

This Notice of Allowability/Examiner's Amendment is responsive to applicant's pre-appeal conference request filed 12 June 2009. Examiner Thomas and Mr. Ian Volek (Registration # 59,240) participated in an interview which is attached hereto. Claims 1-22, 24, 25, 27, 28, 39, 40 and 41 are canceled. Claims 23, 26, 29-38, 42-45 are still pending in the application. Claims 42-45 are new and no new matter has been introduced.

### ***Response to Arguments***

1. Applicant's arguments, see page 12-16, filed 05 November 2008, with respect to Prior Art Rejections have been fully considered and are persuasive. The rejections of claims 23, 26, 29-38 and 42-45 have been withdrawn.

### ***Allowable Subject Matter***

2. Claims 23, 26, 29-38 and 42-45 are allowed. Claims 23, 26, 29-38 and 42-45 have been renumbered as 1-16.

## **EXAMINER'S AMENDMENT**

3. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Mr. Ian Volek (Registration # 59,240) on 21 September 2009.

The application has been amended as follows:

In the Claims

At claim 23, line 25, delete "(i)"

At claim 23, line 31, delete "(ii)"

At claim 42, line 25, delete "(ii)"

At claim 42, line 31, delete "(ii)"

4. The following is an examiner's statement of reasons for allowance: The prior art made of record does not singly or in combination suggest or teach at least the claimed limitation of "a spectroscopic image capturing mode and moving image capturing mode". The closest prior art reference(s) do not teach or suggest at least the claimed limitations as listed above. Therefore, claims 23, 26, 29-38 and 42-45 are allowed.

***Conclusion***

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mia M. Thomas whose telephone number is (571)270-1583. The examiner can normally be reached on Monday-Thursday 8am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bhavesh M. Mehta can be reached on 571-272-7453. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Andrew W Johns/  
Primary Examiner, Art Unit 2624

/Mia M Thomas/  
Examiner, Art Unit 2624